ESTTA Tracking number:

ESTTA586072 02/06/2014

Filing date:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	CB Franchise Systems, LLC					
Entity	Corporation Citizenship California					
Address	8571 Higuera Street Culver City, CA 90232 UNITED STATES					

Attorney information	William Archer 221 N. Figueroa Street, Suite 1200 Los Angeles, CA 90012 UNITED STATES
	William.Archer@lewisbrisbois.com

Registration Subject to Cancellation

Registration No	4146152	Registration date	05/22/2012
Registrant	Fresh Life Foods LLX 10700 Marine View Drive SW Seattle, WA 98146 WA		

Goods/Services Subject to Cancellation

Class 043. First Use: 2009/06/00 First Use In Commerce: 2009/06/00

All goods and services in the class are cancelled, namely: Restaurant services, including sit-

downservice of food and take-out restaurantservices

Grounds for Cancellation

Abandonment Trademark Act section 14	Abandonment	
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Attachments	CB Franchise - Petition for Cancellation Reg. No. 4,146,152.pdf(1401872 bytes)

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/s/ William Archer
Name	William Archer
Date	02/06/2014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Registration No.: 4,146,152		
Date of Issuance: May 22, 2012		
CD ED ANGINGE GUGERRAG AL G		
CB FRANCHISE SYSTEMS, LLC,)	Cancellation No.
Petitioner,)	
)	
)	PETITION FOR
v.)	CANCELLATION
FRESH LIFE FOODS, LLC,)	
, 220,	Ś	
Registrant.)	

CB Franchise Systems, LLC ("Petitioner"), a California limited liability company whose business address is 8571 Higuera Street, Culver City CA 90232, believes that it is being or will be damaged by Registration No. 4,146,152 and hereby petitions to cancel same.

As grounds for cancellation, it is alleged that:

CLAIM FOR RELIEF

1. The mark registered under Registration No. 4,146,152, of Fresh Life Foods, LLC (hereafter, "Registrant") consists of the word BUILTBURGER, and said registration claims first use in June, 2009 for restaurant services, including sit-down service of food and take-out restaurant services, in Class 43.

In the Matter of

- 2. A November 28, 2011 article at seattle.com captioned "BuiltBurger is Closing" reported that, on November 28, 2011 the owners of BuiltBurger "sent out an email confirming the sad news: BuiltBurger is closing". Ex. 1. The article reports that the email from the owners stated: "We are relocating to the East Coast to start a new chapter. We have decided to 'pause' the BuiltBurger brand." Id. The article further reports that "[t]he final burgers will be sold on Friday, December 2 [,2011]". Id.
- 3. Petitioner, however, is informed and believes that BuiltBurger never re-opened and that the registered owner of the marks "BUILTBURGER" and "BUILTBURGER THE WORLDS FINEST HAMBURGERS" has abandoned those marks.
 - 4. BuiltBurger's Facebook page says they are 'permanently closed". Ex.2.
- 5. An Internet search of BuiltBurger's former website

 http://www.builtburger.com/ yields a message: "Internet Explorer cannot display the webpage".

 Ex. 3.
- 6. The NS Lookup at the link below reflects that http://www.builtburger.com/ is not registered to DNS:

http://networktools.com/nslook/Default.asp?domain=builtburger.com&type=255&server=67.222
.132.198&class=1&port=53&timeout=5000&advanced=true&go.x=16&go.y=9
Ex. 4.

- 7. The Washington State Secretary of State website reflects that the Registrant of the marks "BUILTBURGER" and "BUILTBURGER THE WORLDS FINEST HAMBURGERS", Fresh Life Foods, LLC, is "inactive", having expired as an entity on August 31, 2012. Ex. 5.
- 8. Petitioner CB Franchise Systems, LLC ("Petitioner") is a California limited liability company that has been doing business in interstate commerce in the United States since no later than December 31, 2005 by its regular provision of restaurant services within and outside of the State of California and has regularly provided such services in the United States and other countries.

- 9. Petitioner is the exclusive licensee of JAW Restaurant Management, LLC, the registered owner of the marks "THE COUNTER CUSTOM BUILT BURGERS", Reg. Nos. 3796162 and 3796163, for restaurant services featuring non-vegetarian cuisine, both filed January 8, 2008, registered June 1, 2010, and having dates of first use in commerce of December 31, 2005. Petitioner has used such in commerce in the United States since at least December 31, 2005.
- 10. Due to the continuous and extensive use of said marks in connection with restaurant services, Petitioner has become nationally known in the restaurant industry. Petitioner has expended great effort and significant sums of money in advertising and promoting its marks in connection with its services and in creating and maintaining the goodwill symbolized by its marks. By reason of this effort and expenditure, Petitioner's marks have become well known as identifying Petitioner's services.
- 11. As a result of the foregoing, Petitioner has developed an exceedingly valuable goodwill with respect to its marks and these marks have become widely and favorable known to the public throughout the United States and internationally and have become recognized by consumers, the trade and public at large as identifying and distinguishing Petitioner as the source of origin of services bearing Petitioner's marks.
- 12. Petitioner is the exclusive licensee of multiple trademark applications, including Application Serial No. 85927011 for "BUILT [CUSTOM BURGERS]", Application Serial No. 85903420 for "BUILT BY THE COUNTER [CUSTOM BURGERS]", and Application Serial No. 85755204 "BUILT CUSTOM BURGERS", all for restaurant services. All three applications have been refused by the United States Patent & Trademark Office due to Registrant's registrations of the marks "BUILTBURGER" and "BUILTBURGER THE WORLDS FINEST HAMBURGERS".
- 13. Petitioner believes that it will be and is being damaged by the continued registrations of the abandoned marks "BUILTBURGER" and "BUILTBURGER THE WORLDS FINEST HAMBURGERS" in Registration Nos. 4,146,152 and 4,049,698.

WHEREFORE, Petitioner CB Franchise Systems, LLC prays that Registration No. 4,146,152 be cancelled.

Respectfully submitted,

DATED: February 6, 2014 LEWIS, BRISBOIS, BISGAARD & SMITH LLP

By /William Archer/

WILLIAM ARCHER
Attorneys for Petitioner CB FRANCHISE SYSTEMS LLC

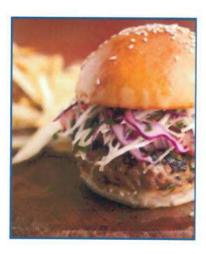
221 N. Figueroa Street Suite 1200 Los Angeles, California 90012 (213) 250-1800

Restaurant News

BuiltBurger is Closing

This week is your last chance to enjoy the Pioneer Square shop's distinctive patties.

Published Nov 28, 2011, 10:20am By Allecia Vermillion

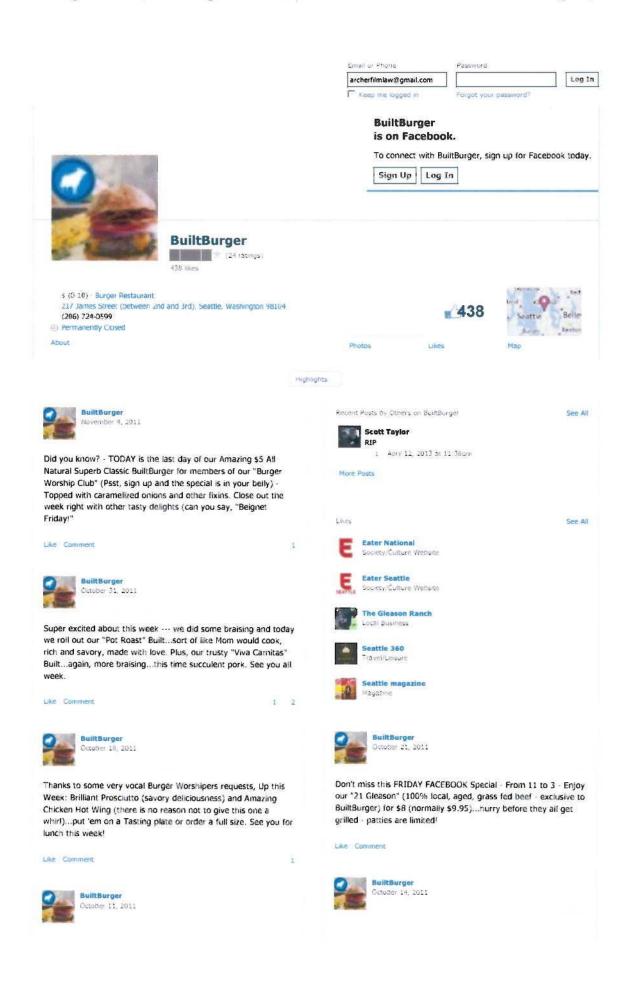


BuiltBurger photo by Geoffrey Smith.

A few phone calls to BuiltBurger last week were met with hesitant "no comment" responses, but today the Pioneer Square burger joint sent out an email confirming the sad news: BuiltBurger is closing. According to the email from owners David and Rebecca Makuen, "We are re-locating to the East Coast to start a new chapter. We have decided to 'pause' the BuiltBurger brand."

The final burgers will be sold on Friday, December 2. BuiltBurger began as a patty wholesaler and opened its Pioneer Square shop in late 2010. The big draw: fixings ground right into the meat, as well as some tasty potato beignets. Make your way there this week to bid a sad adieu to its decadent wares.

File Under: Seattle Restaurant Closings, Burgers, Hamburgers, Closings



There is some delicious action going on at Built this week — we're featuring our "Firecracker" (that's right, 7 peppers and moreIN the patty) and "Hawaiian" (yes, spam is included; topped with grilled pineapple). So, come warm up at BuiltBurger and take a flavor trip to the island. See you this week.

Like Comment



BuiltBurger October 7, 2011

The Tasting Plate at BuiltBurger - Go with three sliders or 2 sliders+side or 1 slider+2 sides - you pick and choose your flavors. We'll make them up really fine. I'm having: Jambalaya, Chorizo and Pastrami. How 'bout you? See you for lunch...++Sounders THIS Saturday++

Like Comment



BuiltBurger October 2, 2011

We're ready for the Seahawks faithful — going for W #2 — pregame at Built with \$1 Session Beers and tasty Burgs. CALL AHEAD TO TAKE TO YOUR TAILGATE if you wish. Fresh "21 Gleason" grass fed gems are awaiting! Open at 11 am

Like Comment



BuiltBurger September 30, 2011

The Grill is warming up, our cooks are limbering up -- ecstatic about preparing Builts with Pastrami, Chorizo, Mushrooms, Bacon and more in our handmade patties. Call ahead for take out or let us please you in our house. Happy Burger Friday!

Like Comment



BuiltBurger September 26, 2011

Up this week --- Delightful Potsticker (wild, sustainable shrimp meets all-nat pork and the delicious flavors of a potsicker) and Marsala Mushroom (all-nat beef, marsala wine-braised mushrooms) --- yum x2, see you for lunch.

Like Comment



BuiltBurger September 20, 2011

SOUNDERS! Skip the stadium food and try our 21 Gleason grassfed gem before the game or do you have your eye on our Magnificent Chorizo? Open until 7 tonight (Tuesday) for all to enjoy...

Like Comment



Hello Seattle — Our Firecracker (some folks had only small beads of sweat sold out, so we crafted more and of course the Supreme Pastrami is rockin' it this Friday. Grab a seat or call ahead and we'll have it piping hot and ready to go (I almost forgot, the 21 Gleason, grass-fed glory, is always a can't miss option on a tasting plate).

Like Comment



BuiltBurger October 8, 2011

Game-on at BuiltBurger - enjoy a burg and \$1 Session Lagers before the Sounders game. Open until 7 with some Fresh Jambalaya Builts ready to go. Call ahead for fast takeout!

Like Comment



BuiltBurger October 4, 201

The French Quarter - so far away, but now so close in the form of a NEW BuiltBurger flavor - Our "Jumpin' Jambalaya" is a creole delight made with andouille pork, chicken and wild shrimp. All combined in ahandsome patty (with a nice kick) topped with sauteed red and green bells and onions. All week in Pioneer Square!



Like Comment Share



2

BuiltBurger September 22, 2011

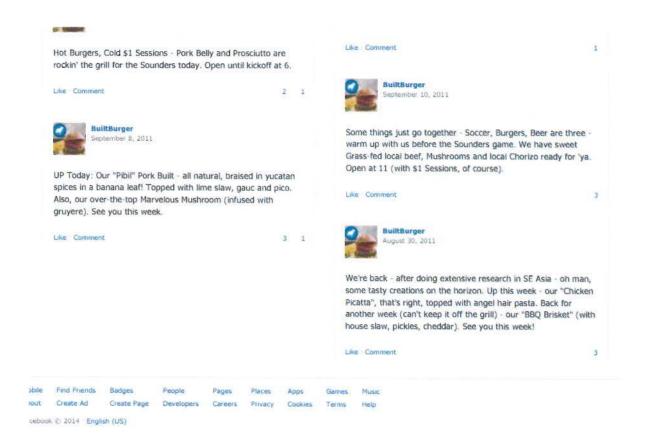
The Hot Wing — good ones make you salivate, right? We're super proud of our "Amazin' Hot Wing" in BuiltBurger form - all nat chicken, bleu, celery, hot sauce - You gotta try one, but they will go fast. You might even want to call to reserve one

Like Comment



BuiltBurger September 20, 2011

Sriracha, that red bottle with the rooster on it -- you'll find it ingeniously incorporated in a Special Built this week -- our beef fell in love and we top it with house-made pickled veg. for the perfect vinegar-y crunch. Not to stop there, we roasted off Italian Pancetta and mixed it with all-nat Beef and fresh Kale and top it with a fresh fennel slaw. Now we're talking. Only @BuiltBurger.





Internet Explorer cannot display the webpage

What you can try:

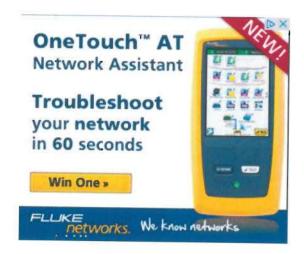
Diagnose Connection Problems



More information



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